

ORDINANCE NO. 09-28

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 38 ENTITLED "FIRE PREVENTION AND PROTECTION", ARTICLE V. TENTS, DIVISION 2. GATHERINGS IN TENTS, OF THE CODE OF ORDINANCES, AND IN PARTICULAR, REVISING HIALEAH CODE § 38-151 ENTITLED "PERMIT; INSURANCE; INSPECTIONS; LOCATION" TO CLARIFY LANGUAGE TO REFLECT LEGISLATIVE INTENT TO LIMIT A TENT GATHERING TO ONE TENT GATHERING ON THE SAME PROPERTY EACH CALENDAR YEAR; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the purpose and intent of this ordinance is for the health, safety and welfare, and proper administration of the City of Hialeah and its residents and business and property owners; and

WHEREAS, this ordinance is to provide language to reflect the City's legislative intent that tent gatherings are limited to one time for each calendar year on the same property.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 38 entitled "Fire Prevention and Protection", Article V. Tent, Division 2. Gatherings in Tents, of the Code of Ordinances of the City of Hialeah, Florida, particularly, Hialeah Code § 38-151 entitled "Permit; insurance; inspections; location", is hereby amended to read as follows:

Chapter 38

FIRE PREVENTION AND PROTECTION

* * *

ARTICLE V. TENTS

DIVISION 2. GATHERINGS IN TENTS

Sec. 38-151. Permit; insurance; inspections; location.

(a) Before any party or organization shall be issued a permit to conduct a tent gathering within the city, such party or organization shall file an application for a permit in the licensing section's office containing the following information:

- (1) The name, address, and telephone number of the party or organization;
- (2) The purpose for which funds raised by the tent gathering shall be used;
- (3) The date the event shall commence and shall terminate;
- (4) The address of the event;
- (5) The names of the persons actually conducting the gathering; and
- (6) All other requirements that the city council deems necessary.

(b) If the tent gathering is to be held on property other than the organization's property, a notarized letter of permission from the property owner shall be filed with the application for a permit in the licensing section.

(c) A tent gathering shall only be allowed to operate for up to a maximum of 15 days, once per during each calendar year on the same property pursuant to one permit. No exceptions to this requirement shall be allowed. Under no circumstances can an applicant bridge two calendar years

by having a tent gathering in excess of 15 days through the issuance of a permit for each calendar year.

(d) The organization shall furnish the city a policy of insurance protection or a certificate of insurance naming the city as a named additional insured and to hold harmless the city to the limits of the insurance coverage of the organization or entity, but in no case less than the state statutory amount for the city for any claim or judgment and the state statutory amount for the city for the same incident or occurrence.

(e) All parties or organizations desiring to conduct tent gatherings shall be required to undergo electrical and fire inspections for safety purposes. The fees for these inspections will be the only fee imposed for a tent permit.

(f) The city shall approve the permit for a tent gathering when it finds that the application has been fully completed and submitted, that the property owner's permission has been obtained, and that all inspections have been successfully completed.

(g) No tent shall be erected closer than 400 feet from any residentially zoned property or property having a residential land use classification ~~or designated area~~. The applicant shall provide a radius map for zoning approval.

* * *

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the

City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

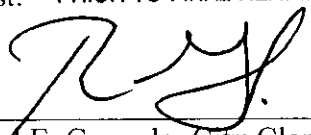
Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 28th day of April, 2009.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING

Attest:

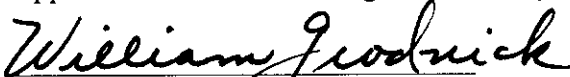

Rafael E. Granado, City Clerk


Carlos Hernandez
Council President

Approved on this 1 day of May, 2009.


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".